

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

TIMOTHY A. BERRY,)	
)	
Plaintiff,)	
v.)	Civil Action No. 3:19CV328–HEH
)	
UNKNOWN,)	
)	
Defendant.)	

**MEMORANDUM OPINION
(Dismissing Action Without Prejudice)**

Plaintiff, a Virginia inmate proceeding *pro se*, has submitted a letter to the Court complaining about his state criminal prosecution. (ECF No. 1.) By Memorandum Order entered on May 10, 2019, the Court explained that it would not conduct a general inquiry into his state court prosecution and that Plaintiff must identify a violation of federal or constitutional law. Because it was not clear from Plaintiff's submissions whether he wished to pursue a civil rights action challenging the conditions of his confinement under 42 U.S.C. § 1983 or a petition for a writ of habeas corpus under 28 U.S.C. § 2254, the Court sent Plaintiff both forms and instructed him to complete and return the appropriate form within fifteen (15) days of the date of entry thereof.

More than fifteen (15) days have elapsed and Plaintiff has not completed and returned a form or otherwise responded to the May 10, 2019 Memorandum Order. Such conduct demonstrates a willful failure to prosecute. *See* Fed. R. Civ. P. 41(b). Accordingly, this action will be dismissed without prejudice.

An appropriate Order shall accompany this Memorandum Opinion.



/s/

HENRY E. HUDSON

UNITED STATES DISTRICT JUDGE

Date: June 13, 2019
Richmond, Virginia